

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

08-cr-87-bbc

v.

PRINCE P. BECK,

Defendant.

Defendant Prince P. Beck filed a “Motion for New Trial Under Fed. R. Crim. P. 33(b)

Based on Newly Discovered Evidence” on April 22, 2011, in which he alleged that the government’s key witnesses at trial lacked credibility and that the United States Attorney should not have called them as witnesses. In an order signed on May 19, 2011, I construed the motion as one brought under § 2255 and gave defendant until June 27, 2011 in which to advise the court whether he wanted to withdraw the motion or proceed with it.

Defendant has written back, saying that he wants to withdraw his Rule 33(b) motion, but questions whether he can file a motion for post conviction relief under 28 U.S.C. § 2255 while his petition for a writ of certiorari is pending in the United States Supreme Court. Defendant’s request for withdrawal of his motion will be granted. The Supreme Court

denied his petition on May 23, 2011, so he has one year from then in which to file a § 2255 motion.

ORDER

IT IS ORDERED that defendant Prince P. Beck's motion for a new trial under Rule 33 is DISMISSED.

Entered this 3d day of June, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge